


Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

To: Paul Barron, Information Technology
Heather Mackenzie-Campbell, Audit Manager

From: Brent Johnson, General Counsel 

Re: Payment Due Dates

Date: April 26, 2004

This memorandum is in response to your request for additional guidance on due dates and past-due accounts. I will try to make this clear and simple, but you must understand that there are some difficulties in applying exact principles because we are not a credit agency.

The question of when something is "past-due" often depends on the circumstances and expectations of both the debtor and creditor. For example, if I purchase a vehicle and obtain a loan from my bank I am put on a monthly payment schedule. During any given month, I am free to make more than the minimum monthly payment, but paying more does not excuse me from my obligation to make the next monthly payment. This is usually spelled out in the credit agreement. By entering into this transaction, I have a clear understanding of what is expected.

When a criminal defendant is ordered to pay a fine, and is allowed to make payments in monthly installments, we are free to impose the same expectations and obligations as might occur in the situation of a consumer loan. The defendant is ordered to pay a set amount as a debt to the state. The defendant is entitled to repay the amount in monthly installments. If the defendant chooses to pay the amounts earlier than expected, that is a legitimate choice, but this might not excuse the defendant from making the next scheduled monthly payment. If the payment is missed, we can treat the payment as past-due.

Although this is the standard by which we can do things, it is not necessarily the standard by which we must do things. We are perfectly free to adopt a policy that defendants can prepay monthly installments. In the example that Paul has provided, if a defendant is ordered to make monthly payments of \$100.00, beginning on January 1, and the defendant makes a \$400.00 payment January 1, we could choose to treat the \$400.00 as payment for January, February, March and April. The

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efficient, and independent system for the advancement of justice under the law.**

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next payment would not be due until May 1, and the defendant would only be past-due if that payment was not made. This may be a more difficult system to monitor, but it is within the court's discretion to adopt such a policy.

Similarly, if a defendant only makes partial payments, then the account can be considered past-due if only a partial payment is made. If a defendant is ordered to pay \$100.00 a month, but only pays \$95.00, the payment can be considered past-due. In short, when a defendant is allowed to make monthly payments, and is ordered to pay a specific amount each month, the defendant should pay at least that amount each month. If the defendant pays less than the amount, then the payment can be considered past-due. If the defendant pays more than the amount, this should not excuse the obligation to pay the next scheduled payment. This may ultimately come down to policy decisions. When do we want to consider payments as being past-due? As stated above, we are free to adopt different policies. Please let me know if you have any additional questions about this.